



DFC's malicious prosecution of [Plaintiff, Melody Joy Cantu], Mrs. Cantu has had to undergo therapy."<sup>2</sup> Accordingly, Plaintiffs' new summary judgment evidence includes, without limitation, Plaintiff, Melody Joy Cantu's unredacted medical records,<sup>3</sup> which Plaintiffs publicly filed with Court in support of Melody's claim that she "suffered significant damages as a direct result of Dr. Guerra's obsessive campaign against her and Dr. Cantu."<sup>4</sup> However, the newly filed medical records actually demonstrate that Melody's therapy and emotional hardships not only predate Dr. Guerra's filing of a police report against Melody for harassment, but they are the direct result of Melody's pre-existing mental health conditions and dysfunctional relationship with her husband Dr. Cantu.

3. Furthermore, Plaintiffs' Reply contains several misstatements and mischaracterizations of the summary judgment evidence and facts. For example, Plaintiffs misrepresent to the Court that "[e]vidence from the Texas Medical Board shows that Dr. Guerra lied to authorities, wrongfully accusing Dr. Cantu of failing to meet his child support obligations" and "as a direct result...,Dr. Cantu's medical license was suspended."<sup>5</sup> However, the competent summary judgment evidence establishes that Dr. Cantu did not timely pay all the child support payments he owed to Dr. Guerra. Moreover, after receiving a request from the Texas Attorney General's Office, Dr. Guerra completed a Custodial Parent's Affidavit of Direct Payments and returned it to the Texas Attorney General as requested.

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<sup>2</sup> Doc. 118, p. 5.

<sup>3</sup> Dr. Guerra notes that Plaintiffs submitted Plaintiffs' medical records as part of the public record in spite of their spurious objections to Dr. Guerra's third-party subpoenas and requests for production of Plaintiffs' medical and billing records and repeated refusals to provide HIPAA authorizations for the production of such medical and billing records. *See* Docs. 90, 93, 101, 104, 106, and 116. Plaintiffs continue to withhold Plaintiffs' HIPAA authorization as of the date of this filing.

<sup>4</sup> Doc. 118, p. 5 (citing Doc. 118-19 and 118-20 in fn. 9-10 therein)

<sup>5</sup> Doc. 118, p.5 (citing Doc. 118-21 in fn. 7 therein); *see also* Ex. S, which is a legible copy of Doc. 118-21.

4. Accordingly, Dr. Guerra requests leave to file a sur-reply to address new arguments and correct misstatements and mischaracterizations contained in the Plaintiffs' Reply.

5. In addition, Dr. Guerra requests leave to file a sur-reply because Plaintiffs just recently produced some of the supplementation discovery responses they were required to provide to Defendants pursuant to the parties' Joint Advisory to the Court Regarding the In-Person Hearing Set on November 4, 2022 [Doc. 116]. Counsel for Plaintiffs sent a link via email at 7:19 p.m. CST on November 11, 2022<sup>6</sup> to counsel for the Defendants containing Plaintiffs' purported supplemental discovery responses. However, the link was defective, and Defendants were unable to access Plaintiffs' supplemental discovery responses until Plaintiffs' counsel sent a new link on November 14, 2022 (the date hereof).<sup>7</sup>

6. In accordance with Local Rule CV-7(b), a copy of the Dr. Guerra's proposed Sur-reply to Plaintiffs' Reply to Dr. Guerra's Response to Plaintiffs' Motion for Summary Judgment is included with this Motion for Leave.

Dated: November 14, 2022.

Respectfully submitted,

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<sup>6</sup> Veteran's Day was on November 11, 2022.

<sup>7</sup> As of the date hereof, Plaintiffs have still failed to comply with all the terms of the parties' agreement under the Joint Advisory. Accordingly, Dr. Guerra reserves the right to file a motion for leave to amend and/or supplement her Summary Judgment on Plaintiffs' Claims [Doc. 109], Response to Plaintiffs' Motion for Summary Judgment [Doc. 114], and Dr. Guerra's sur-reply requested herein pending Plaintiffs' full compliance with the Joint Advisory.

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**CERTIFICATE OF SERVICE**

I certify that on this 14<sup>th</sup> day of November 2022, a true and correct copy of the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send electronic notification of such filing to the parties on record.

/s/Ricardo G. Cedillo  
RICARDO G. CEDILLO